

Eric H. Gibbs (State Bar No. 178658)  
Amy M. Zeman (State Bar No. 273100)  
**GIBBS LAW GROUP LLP**  
505 14th Street, Suite 1110  
Oakland, CA 94612  
Tel: (510) 350-9700  
Fax: (510) 350-9701  
ehg@classlawgroup.com  
amz@classlawgroup.com

Dena C. Sharp (State Bar No. 245869)  
Adam E. Polk (State Bar No. 273000)  
**GIRARD SHARP LLP**  
601 California Street, Suite 1400  
San Francisco, CA 94108  
Tel: (415) 981-4800  
Fax: (415) 981-4846  
dsharp@girardsharp.com  
apolk@girardsharp.com

Adam B. Wolf (State Bar No. 215914)  
Tracey B. Cowan (State Bar No. 250053)  
**PEIFFER WOLF CARR KANE &  
CONWAY, APLC**  
4 Embarcadero Center, Suite 1400  
San Francisco, CA 94111  
Tel: (415) 766-3545  
Fax: (415) 402-0058  
awolf@peifferwolf.com  
tcowan@peifferwolf.com

*Plaintiffs' Counsel*

**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

**SAN FRANCISCO DIVISION**

IN RE PACIFIC FERTILITY CENTER  
LITIGATION

This Document Relates to:  
Case No. 3:18-cv-01586  
(A.B., C.D., E.F., G.H., and I.J.)

Case No. 3:18-cv-01586-JSC

**PLAINTIFFS' ADMINISTRATIVE  
MOTION TO FILE UNDER SEAL**

**N.D. Cal. Local Rules 7-11 and 79-5(e)**

Judge: Hon. Jacqueline Scott Corley

No Hearing Date Set Pursuant to L.R. 7-11(c)

**TO THE COURT AND ALL PARTIES AND THEIR COUNSEL OF RECORD:**

PLEASE TAKE NOTICE that Plaintiffs will and hereby do move the Court, pursuant to Civil Local Rule 79-5, for an administrative order to file under seal the following documents or portions thereof:

- Portions of Plaintiffs' Opposition to Chart's Motions to Exclude Kasbekar, Wininger and Grill;
- Portions of Plaintiffs' Opposition to Chart's Motion for Summary Judgment; and
- Certain exhibits to the Declaration of Amy M. Zeman in Support of Plaintiffs' Opposition to Motions to Exclude Kasbekar, Wininger and Grill and to Motion for Summary Judgment, including:
  - Exhibit 1 – Expert Report of Anand Kasbekar dated November 6, 2020, as amended on November 30, 2020;
  - Exhibit 2 – Expert Report of Eldon Leaphart dated November 6, 2020;
  - Exhibit 3 – Excerpts from the November 24, 2020 deposition of John Cauthen;
  - Exhibit 5 – Supplemental Report of Franklin Miller dated November 20, 2020;
  - Exhibit 6 – Expert report of Ronald Parrington dated November 6, 2020;
  - Exhibit 7 – Excerpts from the November 25, 2020 deposition of Anand Kasbekar;
  - Exhibit 8 – Excerpts from the December 13, 2019 deposition of Anand Kasbekar;
  - Exhibit 9 – Excerpts from the November 16, 2020 deposition of Ronald Parrington;
  - Exhibit 10 – Bates stamped document CHART070444;
  - Exhibit 12 – Rebuttal expert report of Ronald Parrington dated December 4, 2020;
  - Exhibit 13 – Rebuttal expert report of Anand Kasbekar dated December 4, 2020;
  - Exhibit 15 – Excerpts from the November 30, 2020 deposition of David Wininger;

- Exhibit 16 – Excerpts from the November 23, 2020 deposition of Grace Centola;
- Exhibit 17 – Expert report of Elizabeth Grill dated November 6, 2020;
- Exhibit 18 – Excerpts from the December 11, 2020 deposition of Angela Lawson;
- Exhibit 22 – Excerpts from the December 1, 2020 deposition of Franklin Miller;
- Exhibit 23 – Excerpts from the December 15, 2020 deposition of Anand Kasbekar;
- Exhibit 27 – Bates stamped document CHART050770;
- Exhibit 28 – Rebuttal report of Angela Lawson dated December 4, 2020;
- Exhibit 35 – Excerpts from the January 23, 2020 deposition of Chart and Jeff Brooks;
- Exhibit 41 – Excerpts from the January 14, 2020 deposition of Justin Junnier;
- Exhibit 42 – Bates stamped document CHART034331-33;
- Exhibit 43 – Bates stamped document CHART051322-30;
- Exhibit 44 – Bates stamped document CHART062204-13;
- Exhibit 45 – Bates stamped document CHART070695-701;
- Exhibit 46 – Bates stamped document CHART008310-20;
- Exhibit 48 – Excerpts from the February 6, 2020 deposition of Keith Gustafson;
- Exhibit 50 – Excerpts from the February 18, 2020 deposition of Ramon Gonzalez;
- Exhibit 51 – Bates stamped document CHART004576-79;
- Exhibit 53 – Excerpts from Bates stamped document CHART070093;
- Exhibit 54 – Bates stamped document EXTRON-000225-30;
- Exhibit 55 – Bates stamped document CHART033664-65;
- Exhibit 56 – Bates stamped document CHART008978-79;
- Exhibit 57 – Bates stamped document CHART004150-51;
- Exhibit 58 – Bates stamped document CHART017944-47;
- Exhibit 59 – Bates stamped document CHART038721-25;

- Exhibit 60 – Bates stamped document CHART002854-55;
- Exhibit 61 – Excerpts from the February 20, 2020 deposition of Brendon Wade;
- Exhibit 62 – Bates stamped document CHART028403-5;
- Exhibit 63 – Bates stamped document CHART020048-53;
- Exhibit 64 – Bates stamped document CHART007923-25;
- Exhibit 65 – Expert report of Nicholas Jewell dated November 6, 2020;
- Exhibit 68 – Expert report of Stephen Somkuti dated November 6, 2020;
- Exhibit 69 – Expert report of John Cauthen dated November 6, 2020;
- Exhibit 70 – Excerpts from the October 5, 2020 deposition of Buster Ingram;
- Exhibit 74 – Excerpts from the November 18, 2020 deposition of Eldon Leaphart;
- Exhibit 75 – Bates stamped document CHART015541-43;
- Exhibit 76 – Bates stamped document CHART058287-93;
- Exhibit 78 – Bates stamped document CHART031817; and
- Exhibit 79 – Bates stamped document PFC\_000027-36.

Plaintiffs file this motion to comply with the Second Amended Stipulated Protective Order (ECF No. 596) and Civil Local Rule 79-5. Pursuant to Civil Local Rules 79-5 and 7-11(c), no hearing date has been set.

#### **Material to Be Filed Under Seal**

Paragraph 12.3 of the Second Amended Stipulated Protective Order prohibits a party from filing in the public record any disclosure or discovery material that is designated “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” (“Protected Material”) without written permission from the Designating Party or a court order secured after appropriate notice to all interested persons. Protected Material includes portions of pleadings that contain, summarize, or reflect the Protected Material. ECF No. 598 at ¶ 12.3.

Material in the exhibits listed above has been designated “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” All of the material marked for sealing in Plaintiffs’ opposition briefs listed above derives from material designated as “CONFIDENTIAL” or “HIGHLY

CONFIDENTIAL – ATTORNEYS’ EYES ONLY” by Chart. Pursuant to Local Rules 79-5(e)(1) and (2), the Designating Parties are responsible for establishing that all of the designated materials are sealable. With the exception of Plaintiff names and other such identifying information, which the Court has previously permitted to be filed under seal (*see* Order, ECF No. 404), Plaintiffs do not consider it appropriate to keep these materials under seal. In fact, some of the material designated by Defendant Chart is already in the public record or substantially similar to materials that the Court has already found should not be sealed. Plaintiffs nonetheless move to file the designated materials under seal pursuant to paragraph 12.3 of the Second Amended Stipulated Protective Order and Local Rules 7-11 and 79-5.

As required by Civil Local Rule 79-5(d)(1), the following attachments accompany this motion:

1. The Declaration of Amy M. Zeman in Support of Plaintiffs’ Administrative Motion to Seal;
2. A proposed order that lists each document and portion thereof sought to be sealed;
3. Redacted and unredacted versions of the Opposition to Chart’s Motions to Exclude Kasbekar, Wininger and Grill;
4. Redacted and unredacted versions of the Opposition to Chart’s Motion for Summary Judgment; and
5. Redacted and unredacted versions of the exhibits to the Declaration of Amy M. Zeman in Support of Plaintiffs’ Opposition to Motions to Exclude Kasbekar, Wininger and Grill and to Motion for Summary Judgment.

Dated: January 29, 2021

Respectfully submitted,

By: /s/ Amy M. Zeman

Eric H. Gibbs (State Bar No. 178658)  
 Amy M. Zeman (State Bar No. 273100)  
**GIBBS LAW GROUP LLP**  
 505 14th Street, Suite 1110  
 Oakland, CA 94612  
 Tel: (510) 350-9700  
 Fax: (510) 350-9701  
 ehg@classlawgroup.com  
 amz@classlawgroup.com

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4 601 California Street, Suite 1400  
5 San Francisco, CA 94108  
6 Tel: (415) 981-4800  
7 Fax: (415) 981-4846  
8 dsharp@girardsharp.com  
9 apolk@girardsharp.com

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9 **PEIFFER WOLF CARR KANE &**  
10 **CONWAY, APLC**  
11 4 Embarcadero Center, Suite 1400  
12 San Francisco, CA 94111  
13 Tel: (415) 766-3545  
14 Fax: (415) 402-0058  
15 awolf@peifferwolf.com  
16 tcowan@peifferwolf.com

13 *Plaintiffs' Counsel*

**CERTIFICATE OF SERVICE**

I hereby certify that on January 29, 2021, I electronically filed the forgoing with the Clerk of Court using the CM/ECF system, which will send notice of such filing to all counsel of record.

Dated: January 29, 2021

/s/Amy M. Zeman  
Amy M. Zeman